

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JAMES H. SMALLEY,)
)
Plaintiff,)
)
v.) No. 4:14-CV-386-CDP
)
GEORGE A. LOMBARDI, et al.,)
)
Defendants.)

MEMORANDUM AND ORDER

Before the Court is plaintiff's August 5, 2014, letter to the Court [Doc. #8], which will be liberally construed as a motion for reconsideration of the Court's May 7, 2014 Order of Dismissal.

On March 28, 2014, plaintiff was ordered to submit, within thirty days, a certified copy of his prison account statement [Doc. #3]. Plaintiff was advised that his failure to timely comply would result in the dismissal of his case, without prejudice. On May 7, 2014, after plaintiff failed to comply with the Order, the Court dismissed this action pursuant to Rule 41(b) of the Federal Rules of Civil Procedure [Doc. #4].

Plaintiff now states that "this is not the first time that this institution and department has . . . not [given him] this certified account statement," and he complains that the institution charges \$3.75 for the statement and that it takes

approximately ninety days to receive it, "if at all." Having carefully reviewed the motion, the Court finds that plaintiff's grounds for reconsideration are without merit. If plaintiff could not obtain or afford to pay for an inmate account statement, he should have notified the Court in a timely manner. The Court notes that the dismissal was without prejudice. If plaintiff chooses to file a new lawsuit along with a motion to proceed in forma pauperis, and if he is still unable to obtain an inmate account statement, he should explain the circumstances in his motion.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for reconsideration of the Court's May 7, 2014 Order of Dismissal [Doc. #8] is **DENIED**.

IT IS FURTHER ORDERED that plaintiff's motion for leave to appeal in forma pauperis [Doc. #9] is **DENIED**.¹

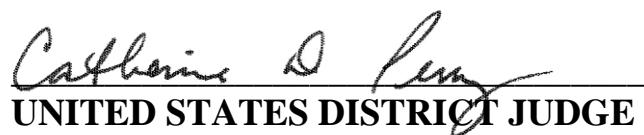
IT IS FURTHER ORDERED that plaintiff shall, within thirty (30) days of the date of this Order, either pay the \$505 appellate filing fee or file a motion in the United States Court of Appeals for the Eighth Circuit for leave to proceed in forma pauperis.

¹ When the Court dismissed this action on May 7, 2014, it certified in writing that an appeal would not be taken in good faith [Doc. #4].

IT IS FURTHER ORDERED that plaintiff shall file any future documents or pleadings in connection with his appeal directly with the United States Court of Appeals for the Eighth Circuit.

IT IS HEREBY CERTIFIED that an appeal from this Order would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3).

Dated this 21st day of August, 2014.



UNITED STATES DISTRICT JUDGE